
Rules of
Department of Insurance
Division 200—Financial Examination
Chapter 16—Conversion of Mutual Life Insurance
Holding Company

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Title 20—DEPARTMENT OF INSURANCE

Division 200—Financial Examination Chapter 16—Conversion of Mutual Life Insurance Holding Company

20 CSR 200-16.010 Conversion of Mutual Life Insurance Holding Company

PURPOSE: This rule 20 CSR 200-16.010 and rules 20 CSR 200-16.020 through 20 CSR 200-16.130 prescribe procedures to be followed in the demutualization of a mutual life insurance holding company organized pursuant to sections 376.1300 to 376.1322, RSMo, as specifically authorized in sections 376.1322.2 and 375.201 to 375.226, RSMo.

Upon compliance with the requirements and completion of the proceedings and pursuant to a plan of conversion approved by members and the director of the Department of Insurance, all as prescribed by this Chapter 20 CSR 16, a mutual life insurance holding company organized pursuant to sections 376.1300 to 376.1322, RSMo, which may hereinafter be referred to as a mutual holding company, may demutualize by converting into a stock corporation. Such conversion may be carried out through any method or combination of methods approved by the director, including, but not limited to, transfer, assumption, exchange, acquisition, contribution, conversion, liquidation, dissolution, or other transaction or transactions set forth in the plan.

AUTHORITY: section 374.045, RSMo Supp. 1998.* Original rule filed March 1, 1999, effective Aug. 30, 1999.

*Original authority 374.045, RSMo 1967, amended 1993, 1995.

20 CSR 200-16.020 Definitions

PURPOSE: This rule defines certain terms to ensure their uniform application in the conversion of a mutual holding company to a stock corporation.

(1) As used in Chapter 20 CSR 16, the following terms shall have the following meanings:

(A) "Closed block" means a fixed segment of the reorganized insurer's participating business that is operated for the exclusive benefit of the policies included therein, with certain assets of the reorganized insurer allocated to such fixed segment;

(B) "Constituent corporation" means the reorganized insurer, the converted holding

company and any intermediate stock holding company created for the purposes of carrying out the plan of conversion;

(C) "Converted holding company" means the stock corporation into which a mutual holding company has been converted or other company into which the mutual holding company may have been merged or liquidated in accordance with this Chapter 20 CSR 16;

(D) "Effective date" means the date upon which the conversion of a mutual holding company is effective as specified in rule 20 CSR 200-16.100;

(E) "Eligible member" means a person who is, or who is deemed to be, on the first eligibility date a member of the mutual holding company and who continues to be, or is deemed to have continued to be, a member of the mutual holding company throughout a period that concludes with, and includes, the second eligibility date;

(F) "First eligibility date" means the date on which the board of directors of the mutual holding company first publicly announces its intention to develop a plan of conversion;

(G) "Member" means a policyholder of the reorganized insurer who is a member of the mutual holding company;

(H) "Membership interest" means all rights and interests of a member of the mutual holding company arising under the articles of incorporation and bylaws of the mutual holding company or otherwise by law, which rights include, but are not limited to, i) the right to vote, if any, ii) rights with regard to member dividends, if any, iii) rights to assets of the reorganized insurer in the event of any proceedings under Chapter 375, RSMo, and iv) rights to a distribution in liquidation or conservation of the mutual holding company; provided, however, that such rights do not include any right expressly conferred solely by the terms of an insurance policy or annuity contract;

(I) "Mutual holding company" means a mutual holding company formed pursuant to sections 376.1300 to 376.1322, RSMo;

(J) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, limited liability company, limited liability partnership, trust, government or governmental agency, state or political subdivision of a state, public or private corporation, board, association, estate, trustee or fiduciary, or any other legal entity;

(K) "Plan of conversion" or "plan" means the plan adopted by the board of directors of a mutual holding company in compliance with rule 20 CSR 200-16.030;

(L) "Reorganized insurer" means a domestic mutual life insurance company that reor-

ganized in accordance with sections 376.1300 to 376.1322, RSMo; and

(M) "Second eligibility date" means the second date for determining eligible members as established by the board of directors and specified in the plan of conversion.

AUTHORITY: section 374.045, RSMo Supp. 1998.* Original rule filed March 1, 1999, effective Aug. 30, 1999.

*Original authority 374.045, RSMo 1967, amended 1993, 1995.

20 CSR 200-16.030 Contents of Plan

PURPOSE: This rule sets forth the provisions that must be included in a plan of conversion in accordance with section 375.206, RSMo.

(1) The conversion of a mutual holding company shall be accomplished pursuant to a plan of conversion that complies with the following requirements.

(A) Such plan of conversion shall have been duly adopted by action of not less than three-fourths (3/4) of the entire board of directors of the mutual holding company.

(B) Such plan of conversion shall specify the reasons for the proposed conversion and shall be—

1. Fair and equitable to the members of the mutual holding company; and

2. Not prejudicial to the interest of the policyholders of the reorganized insurer.

(C) Such plan of conversion shall provide that all membership interests shall be extinguished as of the effective date and shall require the distribution of consideration, as soon as reasonably feasible, to all eligible members upon extinguishment of such membership interests. The plan of conversion shall set forth the time frame in which such distribution of consideration will be made for each class of members. Consideration may consist of cash, securities of the converted holding company, additional life insurance or annuity benefits or any combination of such forms of consideration, or any other compensation approved by the director. The form or forms of consideration to be distributed to a class or category of eligible members may differ from the forms of consideration to be distributed to another class or category of eligible members. Such consideration shall be allocated among eligible members under fair and equitable formulas, methods, and assumptions. The plan of conversion may

provide that all or any portion of the consideration distributable to all or certain eligible members may be held in a trust or other entity or entities established by the mutual holding company pursuant to, and subject to limitations set forth in, the plan of conversion.

(D)1. If no closed block of participating policies and contracts was established or alternative provision was approved when the mutual holding company was established or thereafter, then the plan of conversion of a mutual holding company must provide for the reasonable dividend expectations of policyholders of the reorganized insurer. Such provision may, but is not required to, include a closed block. The sole purpose of any such dividend protection provision shall be to provide the means to meet reasonable policyholder dividend expectations, and it is not intended that such provision shall provide in any way for the distribution of consideration to eligible members in exchange for the extinguishment of membership interests as set forth in subsection (1)(C).

2. Any such provision for dividend expectations may be limited to certain participating individual life insurance policies and/or certain participating individual annuity contracts in force on the date specified in the plan of conversion for which the reorganized insurer has an experience-based dividend scale due, paid or accrued by action of the board of directors of the reorganized insurer in the year in which the plan of conversion is adopted or such other year as may be specified in the plan of conversion.

(E) Such plan of conversion shall include the following:

1. A description of how the conversion will be effected;

2. A statement of the manner and method by which membership interests will be extinguished and consideration will be provided to the eligible members;

3. The proposed effective date of the conversion or the manner in which the proposed effective date of the conversion is or will be established;

4. Copies of the proposed articles of incorporation and bylaws of the converted holding company; and

5. Any other provisions that the director determines are necessary in order to comply with paragraphs (1)(B)1. and 2. above.

AUTHORITY: section 374.045, RSMo Supp. 1998.* Original rule filed March 1, 1999, effective Aug. 30, 1999.

*Original authority 374.045, RSMo 1967, amended 1993, 1995.

20 CSR 200-16.040 Application; Hearing

PURPOSE: *This rule sets forth the procedures to be used by the director in examining and reviewing a plan of conversion, including, in accordance with section 375.206, RSMo, a standard for the director of insurance in reviewing the amendment or restatement of the articles of incorporation of the mutual holding company.*

(1) The mutual holding company shall file with the director an application for examination of its plan of conversion and approval of such plan. Such application shall include the following:

(A) A certified copy of the plan of conversion;

(B) A certification that the plan of conversion has been duly adopted by action of not less than three-fourths (3/4) of the entire board of directors of the mutual holding company;

(C) A form of the proposed notice of the meeting of members required by rule 20 CSR 200-16.050;

(D) Copies of the proposed articles of incorporation and bylaws of each constituent corporation;

(E) A list of the officers and directors, together with their biographies, of each constituent corporation;

(F) Financial statements, which may be prepared on a pro forma basis, in the form required by the director;

(G) A summary of the plan of conversion and drafts of written materials to be mailed to members seeking their approval of the plan of conversion; and

(H) Any other additional information that the director may request.

(2) The plan of conversion may be approved by the director only if he or she finds that the plan—

(A) Conforms to the requirements of this regulation and section 375.206, RSMo;

(B) Is fair and equitable to the members of the mutual holding company; and

(C) Is not prejudicial to the interest of the policyholders of the reorganized insurer.

(3) As part of the director's examination and review of the plan of conversion, the director shall order a public hearing on the plan. The mutual holding company shall provide members with at least thirty (30) days notice of any such hearing. Such notice shall be provided in the form and manner that the director, in his or her discretion, shall require. The purpose of the hearing shall be to receive comments and information from persons with an interest in the conversion of the mutual

holding company for the purpose of aiding the director in making a decision on the plan. The notice of the hearing shall state the purpose, date, time, and location of the hearing and may provide a brief statement of the dates and procedures for submission by any person with an interest in the conversion of the mutual holding company of a) a written statement concerning the plan of conversion, or b) a written notice of intent to make an oral statement at the hearing.

(4) The public hearing described in section (3) shall be held within sixty (60) days after the application for examination and approval of a plan of conversion is deemed informationally complete by the director, and at least forty-five (45) days notice of the director's intent to hold such a hearing shall be provided by the director to the mutual holding company filing such application. The hearing shall be conducted by the director or, at the director's discretion, his or her designee who shall report to and advise the director on the matter, and the order or determination issued by the director shall have the same force and effect as if the director had conducted the hearing personally. The director's order or determination shall be issued after the director has received certification of the approval of the plan by the mutual holding company's members pursuant to rule 20 CSR 200-16.050 and within thirty (30) days after the conclusion of the hearing. If the application for approval is denied, the director shall issue a written notice to the mutual holding company setting forth the reasons for such denial.

(5) For the purpose of examining and reviewing a plan of conversion to determine whether it meets the requirements of this rule 20 CSR 200-16.040, or in connection with any other matters relating to the development of such a plan, the director may engage the services of advisors and consultants. All reasonable costs related to the development, examination and review of a plan and other related matters, including those reasonable costs attributable to the use by the director of such advisors and consultants, shall be paid by the mutual holding company that files a plan of conversion that becomes the subject of an examination and review by the director or, if otherwise legally permissible, by an affiliated company designated by the mutual holding company.

AUTHORITY: section 374.045, RSMo Supp. 1998.* Original rule filed March 1, 1999, effective Aug. 30, 1999.

**Original authority 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 200-16.050 Member Approval

PURPOSE: *This rule prescribes the manner in which the mutual holding company must obtain the approval of its members to convert.*

The plan of conversion must be approved by a vote of not less than three-fourths (3/4) of the votes of the members of the mutual holding company voting thereon in person or by proxy at a meeting of members called for that purpose. In order for such vote to be considered valid, five percent (5%) of the members of the mutual holding company must participate in the vote either in person or by proxy. All members entitled to vote must be given notice of their opportunity to vote on the plan of conversion, which notice shall be accompanied by a copy of the plan or a summary thereof in a form approved by the director and such other explanatory information as the director shall approve or require. Such notice shall be mailed or provided by such other method or methods as may be approved by the director not less than thirty (30) days before the date of the meeting of members to vote on the plan. Such notice may be combined in the same mailing with the notice of the hearing described in rule 20 CSR 200-16.040, provided that the latter notice shall be set forth on a separate document approved as to form and content by the director.

AUTHORITY: *section 374.045, RSMo Supp. 1998.* Original rule filed March 1, 1999, effective Aug. 30, 1999.*

**Original authority 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 200-16.060 Limitations on Ownership

PURPOSE: *This rule permits the director to take into account the effect on the plan of conversion in the event that any person or group of persons seeks to acquire a controlling interest in the capital stock of the converted holding company for a period of years after the effective date of the conversion as determined by the director. It also limits the ability of management to acquire a controlling interest in the capital stock of the converted holding company within two years after the effective date of the conversion.*

(1) After the effective date of the conversion, for a period of time not to exceed five (5) years to be determined by the director, if any person shall acquire or offer to acquire a

direct or indirect interest in the converted holding company or the reorganized insurer in a transaction requiring the director's prior approval pursuant to section 382.040, RSMo or 375.355, RSMo, the director, in applying the relevant statutory criteria, shall consider—

(A) Whether the acquisition will frustrate the plan of conversion;

(B) Whether the acquisition is in the interest of policyholders of the reorganized insurer; and

(C) Whether the board of directors of the converted holding company or its parent has approved the acquisition.

(2) For a period of six (6) months after the effective date of the conversion, no officer, director or employee of the converted holding company or of any affiliate shall be granted as compensation any stock, stock options, or similar interests in the converted holding company or the reorganized insurer.

(3) For a period of two (2) years after the effective date of the conversion, the aggregate percentage of outstanding stock, including stock options, of the converted holding company or the reorganized insurer held by officers, directors and employees of the converted holding company or any affiliate may not exceed ten percent (10%).

AUTHORITY: *section 374.045, RSMo Supp. 1998.* Original rule filed March 1, 1999, effective Aug. 30, 1999.*

**Original authority 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 200-16.070 Compensation

PURPOSE: *This rule prohibits the compensation of any director, officer, agent, or employee of the mutual holding company based on the plan of conversion becoming effective.*

No director, officer, agent, or employee of the mutual holding company or any of its affiliates shall receive any fee, commission, or other valuable consideration whatsoever that is based upon the plan of conversion becoming effective. Nothing in this rule 20 CSR 200-16.070 shall prohibit a compensation arrangement involving the use of stock of the converted holding company, the reorganized insurer, or any affiliate thereof, which is contained in the plan and approved by the director to be adopted or implemented after conversion by the converted holding company or prohibit such an arrangement to be later adopted or implemented by the converted

holding company. However, any such compensation arrangement may not result in a violation of any of the limitations of ownership contained in rule 20 CSR 200-16.060.

AUTHORITY: *section 374.045, RSMo Supp. 1998.* Original rule filed March 1, 1999, effective Aug. 30, 1999.*

**Original authority 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 200-16.080 Substantial Compliance

PURPOSE: *This rule provides that so long as the mutual holding company complies substantially and in good faith with the notice requirements of this Chapter 20 CSR 16, the failure to give notice to any person or persons does not impair the validity of the conversion.*

If the mutual holding company complies substantially and in good faith with the requirements of this regulation with respect to any required notice to members, its failure in any case to give such notice to any person or persons entitled thereto shall not cause the director to withhold or reverse its approval of the plan of conversion.

AUTHORITY: *section 374.045, RSMo Supp. 1998.* Original rule filed March 1, 1999, effective Aug. 30, 1999.*

**Original authority 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 200-16.090 Availability of Information

PURPOSE: *This rule regulates the internal affairs of the Department of Insurance regarding the confidentiality of information and documents disclosed to it during its review and examination of a plan conversion pursuant to this Chapter 20 CSR 16.*

The director may request such documents or information in the possession of the mutual holding company or its affiliates as are reasonably necessary, at the director's sole discretion, to enable the director to examine the plan of conversion and make the findings required by this Chapter 20 CSR 16 for approval of the plan. Confidentiality of such documents shall be as provided for in 20 CSR 10-2.400.

AUTHORITY: *section 374.045, RSMo Supp. 1998.* Original rule filed March 1, 1999, effective Aug. 30, 1999.*



**Original authority 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 200-16.100 Effective Date

PURPOSE: This rule establishes the date on which the plan becomes effective.

When the director has issued an order approving the plan of conversion as provided in rule 20 CSR 200-16.040, or on such later date, if any, as may have been specified in or determined in accordance with such plan and agreed upon by the director, the director shall file a copy of the proposed articles of incorporation of the converted holding company with the secretary of state. Upon the issuance of a certificate of amendment or restatement of the articles of incorporation by the secretary of state, the articles of incorporation of the converted holding company shall be deemed to be amended or restated accordingly and the plan of conversion shall become effective. The converted holding company shall immediately publish notice of the effective date in two (2) newspapers of general circulation which have been deemed acceptable by the department.

AUTHORITY: section 374.045, RSMo Supp. 1998. Original rule filed March 1, 1999, effective Aug. 30, 1999.*

**Original authority 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 200-16.110 Corporate Existence

PURPOSE: This rule describes the effect of the conversion on the members of the mutual holding company, on their membership interests, and on the converted holding company.

Upon the effective date, all membership interests shall be extinguished and members eligible to receive consideration under the plan of conversion shall be entitled to receive such consideration pursuant to the terms of the plan. The converted holding company shall be a continuation of the mutual holding company, and the conversion of the mutual holding company in no way shall annul, modify, or change any of the mutual holding company's existing suits, rights, contracts, or liabilities, except as provided in the plan. After conversion, the converted holding company shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon stock corporations and shall retain all rights and contracts existing prior to conversion, subject to the effectiveness of the plan. Upon the conversion of

a mutual holding company under this Chapter 20 CSR 16, sections 376.1300 to 376.1322, RSMo, no longer apply to the mutual holding company, the converted holding company, any intermediate stock holding company, or the reorganized insurer.

AUTHORITY: section 374.045, RSMo Supp. 1998. Original rule filed March 1, 1999, effective Aug. 30, 1999.*

**Original authority 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 200-16.120 Abandonment or Amendment of Plan

PURPOSE: This rule describes the process by which a mutual holding company may abandon a plan of conversion.

The mutual holding company may, by action of not less than three-fourths (3/4) of its board of directors, abandon or amend the plan of conversion at any time before the effective date. Upon abandonment, all rights and obligations arising out of the plan shall terminate, and the mutual holding company shall continue to conduct its business as a mutual holding company as though no such plan had ever been adopted. Any amendment after the public hearing required by rule 20 CSR 200-16.040, or after member approval required by rule 20 CSR 200-16.050, shall require a further hearing or vote unless the mutual holding company demonstrates to the satisfaction of the director that such amendment will not materially disadvantage the members. Notwithstanding the preceding sentence, no amendment requested by the director after the public hearing required by rule 20 CSR 200-16.040, or after the member approval required by rule 20 CSR 200-16.050, shall require a further hearing or vote unless such amendment changes the plan in a manner which the director determines is materially disadvantageous to the members.

AUTHORITY: section 374.045, RSMo Supp. 1998. Original rule filed March 1, 1999, effective Aug. 30, 1999.

**Original authority 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 200-16.130 Severability

PURPOSE: This rule provides for the survival of the enforceability of the remaining portions of this rule if one or more sections are ruled invalid.

To the extent otherwise permissible by law, if any rule or portion of a rule of this Chapter 20 CSR 16 or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of such rule or rules or the applicability of such provision to other persons or circumstances shall not be affected thereby, and the director shall enforce all remaining requirements of this Chapter 20 CSR 16.

AUTHORITY: section 374.045, RSMo Supp. 1998. Original rule filed March 1, 1999, effective Aug. 30, 1999.*

**Original authority 374.045, RSMo 1967, amended 1993, 1995.*